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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,098	03/15/2004	Robert S. Melesko	033327.0017	9262
7590		08/29/2007		
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			EXAMINER	
			MCCULLOCH JR, WILLIAM H	
			ART UNIT	PAPER NUMBER
			3714	
			MAIL DATE	DELIVERY MODE
			08/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/801,098

Applicant(s)

MELESKO ET AL.

Examiner

William H. McCulloch Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/9/2005, 8/6/2007</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statements (IDS) with mailroom dates 02/09/2005 and 08/06/2007 were filed in compliance with the provisions of 37 CFR 1.97-1.98.

Accordingly, the examiner has considered the information disclosure statements.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 8, 9, 12-22, and 25-29 (and all claims depending therefrom) are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Each of the above-cited claims lacks sufficient antecedent basis for limitations in each claim. The claims appear to confuse similar, though non-identical, limitations. The following are problematic groups of limitations:

- POS terminal, point-of-sale terminal, terminal, POS device, point-of-sale device;
- display, terminal display;
- game controller, lottery game controller, lottery controller;
- interface, lottery interface, non-lottery transaction interface, interface associated with at least one non-lottery-related retailer function, interface associated with at least one lottery-related function

Applicant is required to take appropriate action to correct any and all antecedent basis issues.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-31 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 6,267,670 to Walker et al. (hereinafter Walker).

Regarding claims 1, 14, 18, and 27, Walker teaches a transaction processing device and method for conducting a lottery comprising: a POS terminal (POS terminal 30) having a CPU (CPU 31) and a display (display device 31; see at least fig. 3); a lottery game controller (e.g., lottery data processing system 60) in communication with said POS terminal; a lottery transaction controller or server (e.g., POS controller 40) in communication with at least one POS terminal; retailer software operable by said CPU for displaying an interface associated with at least one non-lottery-related retailer function on said display (see at least 6:25-32); and lottery software operable by said CPU for displaying an interface associated with at least one lottery-related retailer function on said display (see at least 6:25-32).

Regarding claim 29, Walker teaches the above limitations and further describes a means for selecting one or more lottery applications for display on a lottery interface (e.g., input device 37; see at least 6:10-18); means for communicating lottery selection to a central lottery server (e.g., communication port 35 and POS network interface 72);

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means for conducting lottery transaction via the point-of-sale terminal (e.g., input device 37 and display device 38); and means for conducting non-lottery transactions via the point-of-sale terminal (e.g., communication port 35, which provides all transactions between POS terminal 30 and related devices).

Regarding claims 2, 4, 15, and 17, Walker teaches a POS terminal provided with memory and both retailer software and lottery software stored in and operable from said memory (see at least 6:25-32).

Regarding claims 3 and 16, Walker teaches retailer software is stored on a retailer controller in communication with said terminal and operable by said CPU for display on said display device (e.g., in-store servers; see at least 5:1-23 and 5:37-49).

Regarding claim 5, Walker teaches lottery software is stored on a lottery controller in communication with said terminal and operable by said CPU for display on said display (e.g. POS terminal 30; see at least 5:1-23).

Regarding claim 6, Walker describes lottery software is operable for managing lottery game offerings and wherein the [lottery-related] interface is a game selection interface (see at least 6:25-32).

Regarding claims 7-8 and 19-21, Walker teaches a lottery game controller hosts a plurality of available lottery games and wherein said [lottery-related] interface allows selection of a game offering hosted by said game controller and selected by a user of said POS terminal, said selection being communicated to said lottery game controller (see at least figs. 8-10 and 8:11-9:9).

Regarding claims 9 and 22, Walker describes lottery software operable for managing lottery transactions and wherein the displayed [lottery-related] interface is taken from the group consisting of: lottery ticket purchase, validation, and game result query (see at least 6:25-32 and 11:29-45).

Regarding claims 10 and 23, Walker teaches a lottery transaction controller facilitates processing of lottery transactions with a remote lottery host system (e.g., lottery data processing system 60).

Regarding claims 11 and 24, Walker teaches lottery tickets including a quick pick ticket and a draw ticket (see at least 9:44-49).

Regarding claims 12 and 25, Walker shows a POS terminal in operating communication with a printing device (e.g., printer 39).

Regarding claims 13 and 26, the Examiner interprets the recited "web browser" as a software application that enables a user to display information located on the Internet or a computer network. Since Walker describes an interface that displays information on a computer network (see at least 4:59-67), Walker meets the claimed limitation of an interface displayed via a web browser.

Regarding claim 28, Walker describes a method of adapting a point-of-sale device to incorporate lottery transaction capabilities in at least 5:1-23.

Regarding claims 30-31, Walker describes a lottery system comprising: a lottery server (e.g., lottery data processing system 60) operable to process lottery transactions and provide interactive lottery games over a network; and a plurality of distributor server systems (e.g. POS controllers 20 or in-store servers), each having at least one browser-

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based point-of-sale device (POS terminal 30; see explanation of "web browser" in relation to claims 13 and 26) for processing lottery and non-lottery transactions, said distributor server systems being in operable communication with said network (see at least fig. 1 and 6:47-57). Further regarding claim 31, the Examiner interprets a "self-service, browser-based point-of-sale device" as Walker's POS terminal 30 since "self-service" is functional language and its structure it is capable of use by any individual.

Citation of Pertinent Prior Art

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Notice of References Cited.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. McCulloch Jr. whose telephone number is 571-272-2818. The examiner can normally be reached on M-F 8:30-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William H. McCulloch Jr.
Examiner
Art Unit 3714
8/23/2007

wm



Robert E. Pezzuto
Supervisory Patent Examiner
Art Unit 3714